



January 30, 2007

Board of Assessors  
Town Offices  
11 Lincoln Street  
Plymouth, MA 02360

Re: Clause 22E Veterans Exemption  
Our File No. 2006-425

Dear Ms. Rebell:

This is in reply to your letter of December 13, 2006 requesting an opinion regarding the qualifications for the property tax exemption for 100% disabled veterans under G.L. c. 59, §5, Clause 22E.

For entitlement to exempt status under G.L. c. 59 §5(22E), a veteran must satisfy two statutory requisites. First, the veteran must be certified by the Veterans Administration (VA) as 100% disabled. Second, the veteran must be incapable of working.

The Supreme Judicial Court considered these requirements in Board of Assessors of Melrose v. Driscoll, 370 Mass. 443 (1976). Here the Court held that the degree of disability of a veteran determined by the VA is binding upon the assessors. At the same time, the court held that the language "incapable of working" establishes an independent statutory requirement for exemption. Therefore, when presented with an exemption application under Clause 22E, assessors must make a separate determination of the applicant's capability to do work.

In our view, a person who actually earns compensation for work provided on a full or part time basis is by any ordinary understanding of the term, capable of working for purposes of this statutory exemption requirement. Accordingly, to the extent that a veteran reports the receipt of salary, wages or self-employment income, we do not see how the second statutory requirement, i.e., "incapable of working", may be satisfied. In the circumstances presented, it appears that the veteran, at least, receives regular compensation from his employment with Dick's Sporting Goods. By contrast, an applicant can receive investment income and still qualify for the exemption, provided he receives no salary, wages or self-employment income.

I hope this information proves helpful. If you need further assistance in this or any other matter, please do not hesitate to contact me.

Very truly yours,

Kathleen Colleary, Chief  
Bureau of Municipal Finance Law

KC/DJM